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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/064,494	07/22/2002	Wataru Nakazawa		4851

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FOLEY AND LARDNER LLP
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EXAMINER CLEMENT, MICHELLE RENEE	
ART UNIT 3641	PAPER NUMBER

DATE MAILED: 02/15/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/064,494

Applicant(s)

NAKAZAWA, WATARU

Examiner

Michelle (Shelley) Clement

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3641

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 30 November 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-8 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-8 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Drawings

1. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the toothed washer must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person

having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1-3 and 5-8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Scalise (US Patent # 5,362,187) and Kalandek et al. (US Patent # 6,450,529). Scalise discloses an attaching structure comprising a spacer, the spacer having a cylindrical portion for receiving a threaded fastener, an end of the spacer can be in contact with a vehicle body and another end of the spacer is provided with a flange. Scalise discloses the attaching structure can be used for attaching a fabric sheet to a vehicle body (column 1, line 14) by inserting a threaded fastener through a hole of the fabric sheet. The flange is integrally formed with the cylindrical portion, the spacer includes a spacer rear body in contact with a fixed substrate that could be a vehicle body and a spacer front body to be connected with the spacer rear body, the spacer front body includes the flange, and the spacer rear body includes an enlarged portion larger than the hole of the fabric sheet, the enlarged portion being located between the vehicle body and the fabric sheet. The figures clearly show a clearance between the spacer and the hole of the fabric sheet, which would allow the spacer to rotate within the hole of the fabric sheet. At least one of the spacer front body and the spacer rear body include a pair of hooks provided with a pawl. The structure further comprising a resilient washer (reference 44), attached to an end of the threaded fastener and a diameter larger than the inner diameter of the hole, configured to prevent the spacer from being removed from the hole of the fabric sheet. Although Scalise does not expressly disclose the washer being toothed, Scalise does disclose the washer as resilient for locking the bolt and thereby preventing the spacer from being removed from the hole, it would have been obvious to one of ordinary skill in the art at the time the invention was made to substitute one type of locking washer for another type of locking washer, since these two

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washers are art-recognized equivalents and are both capable of performing the claimed function of preventing the spacer from being removed from the hole. It is noted that limitations as to the method in which the structure is are essentially method limitations or statements of intended or desired use. Thus, these claims as well as other statements of intended use do not serve to patentably distinguish the claimed structure over that of the reference. See *In re Pearson*, 181 USPQ 641; *In re Yanush*, 177 USPQ 705; *In re Finsterwalder*, 168 USPQ 530; *In re Casey*, 512 USPQ 235; *In re Otto*, 136 USPQ 458; *Ex parte Masham*, 2 USPQ 2nd 1647.

See MPEP § 2114 which states:

A claim containing a “recitation with respect to the manner in which a claimed apparatus is intended to be employed does not differentiate the claimed apparatus from the prior art apparatus” if the prior art apparatus teaches all the structural limitations of the claim. *Ex parte Masham*, 2 USPQ 2nd 1647

Claims directed to apparatus must be distinguished from the prior art in terms of structure rather than functions. *In re Danly*, 120 USPQ 528, 531.

Apparatus claims cover what a device is not what a device does. *Hewlett-Packard Co. v. Bausch & Lomb Inc.*, 15 USPQ2d 1525, 1528.

As set forth in MPEP § 2115, a recitation in a claim to the material or article worked upon does not serve to limit an apparatus claim.

Although Scalise does not expressly disclose the attaching structure in combination with an airbag including a fabric sheet, the hole located in an edge portion of an airbag that is intended to protect a vehicle occupant’s head, Kalendek et al. does. Kalendek et al. teaches a head protective airbag including a fabric sheet, the sheet attached to a vehicle body by inserting a fastener through a hole of the sheet and through the vehicle body. Scalise and Kalendek et al. are analogous art because they are from similar problem solving areas: fastening fabric sheets to vehicle bodies. It would have been obvious to one of ordinary skill in the art at the time the invention was made to utilize the fastener as taught by Scalise with the protective bag as taught

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by Kalendek et al. The suggestion/motivation for doing so would have been to utilize an effective fastener to fasten the airbag to the vehicle.

4. Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over Scalise (US Patent # 5,362,187) and Nakajima et al. (US Patent # 6,279,941). Scalise discloses an attaching structure comprising a spacer, the spacer having a cylindrical portion for receiving a threaded fastener, an end of the spacer can be in contact with a vehicle body and another end of the spacer is provided with a flange. Scalise discloses the attaching structure can be used for attaching a fabric sheet to a vehicle body (column 1, line 14) by inserting a threaded fastener through a hole of the fabric sheet. The flange is integrally formed with the cylindrical portion, the spacer includes a spacer rear body in contact with a fixed substrate that could be a vehicle body and a spacer front body to be connected with the spacer rear body, the spacer front body includes the flange, and the spacer rear body includes an enlarged portion larger than the hole of the fabric sheet, the enlarged portion being located between the vehicle body and the fabric sheet. The figures clearly show a clearance between the spacer and the hole of the fabric sheet, which would allow the spacer to rotate within the hole of the fabric sheet. It is noted that limitations as to the method in which the structure is are essentially method limitations or statements of intended or desired use. Thus, these claims as well as other statements of intended use do not serve to patentably distinguish the claimed structure over that of the reference. See *In re Pearson*, 181 USPQ 641; *In re Yanush*, 177 USPQ 705; *In re Finsterwalder*, 168 USPQ 530; *In re Casey*, 512 USPQ 235; *In re Otto*, 136 USPQ 458; *Ex parte Masham*, 2 USPQ 2nd 1647.

See MPEP § 2114 which states:

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A claim containing a “recitation with respect to the manner in which a claimed apparatus is intended to be employed does not differentiate the claimed apparatus from the prior art apparatus” if the prior art apparatus teaches all the structural limitations of the claim. *Ex parte Masham*, 2 USPQ 2d 1647

Claims directed to apparatus must be distinguished from the prior art in terms of structure rather than functions. *In re Danly*, 120 USPQ 528, 531.

Apparatus claims cover what a device is not what a device does. *Hewlett-Packard Co. v. Bausch & Lomb Inc.*, 15 USPQ2d 1525, 1528.

As set forth in MPEP § 2115, a recitation in a claim to the material or article worked upon does not serve to limit an apparatus claim.

Although Scalise does not expressly disclose the attaching structure in combination with an airbag including a fabric sheet, and the spacer including a tacking member that engages with an engaging hole in the vehicle body, Nakajima et al. does. Nakajima et al. teaches an air bag device having a structure for attaching the airbag sheet to the vehicle, wherein the attaching structure includes a spacer having a cylindrical portion for receiving a threaded fastener, the spacer including a tacking member for tacking the spacer to the vehicle body (column 6, lines 55-65) so that the spacer will not rotate when fastened to the vehicle. Scalise and Nakajima et al. are analogous art because they are from similar problem solving areas: fastening fabric sheets to vehicle bodies. It would have been obvious to one of ordinary skill in the art at the time the invention was made to utilize the fastener as taught by Scalise with the protective bag and tacking member as taught by Nakajima et al. The suggestion/motivation for doing so would have been to utilize an effective fastener that would not rotate once an airbag was fastened to the vehicle.


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Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michelle (Shelley) Clement whose telephone number is 571.272.6884. The examiner can normally be reached on Monday thru Thursday 9-5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Carone can be reached on 571.272.6873. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


MICHELLE CLEMENT
PRIMARY EXAMINER